2025:BHC-AS:4589-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11572 OF 2024

Raosaheb Dada Pawar Ghodganga … Petitioner
Vs.
The State of Maharashtra & Ors. … Respondents

WITH
INTERIM APPLICATION NO. 1256 OF 2025
WITH
INTERIM APPLICATION NO. 14111 OF 2024
IN
WRIT PETITION NO. 11572 OF 2024

Ashok Sahakari Sakar Karkhana Ltd. … Applicant
in the matter between
Raosaheb Dada Pawar Ghodganga … Petitioner
Vs.
The State of Maharashtra & Ors. … Respondents

Mr. Rushikesh C. Barge for the petitioner.
Mr. Ravindra Adsure i/b. Mr. Vivek V. Salunkhe for the applicant in IA/1256/2025 and IA/14111/2024 and for respondent no. 16 in Writ Petition.
Mr. Sarang S. Aradhye a/w. Mr. Gauri Velankar and Mr. Shantanu Gurav for respondent no. 15.
Dr. Birendra B. Saraf, AG a/w. Ms. Neha Bhide, GP, Mr. B.V. Samant, Addl. G.P., Mrs. Shruti D. Vyas, Addl. G.P , Mr. Y.D. Patil, AGP, Mr. Rohan Sawant ‘B’ Panel Counsel for the State.

CORAM: G. S. KULKARNI & ADVAIT M. SETHNA, JJ.
DATED: 29 JANUARY 2025

P.C.

1. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:

> “a) Be pleased issue the writ of certiorari, writ in nature of certiorari or any other order, directions calling for the record and proceeding of the decision taken in Minutes of Meeting dated 23 July, 2024 passed by the respondents herein and after going through the legality, validity and proprietary of the same, the decision taken by the respondents for grant of “Marginal Money Loan Routed through Government of

> Maharashtra" from NCDC be quashed and set aside for the reasons and circumstances mentioned herein above.
>
> b) Be pleased to issue the writ of Mandamus, writ in nature of Mandamus or any other Order, Directions calling for the record and proceeding of the entire scheme namely "Marginal Money Loan", thereby declaring that the petitioner is entitled for grant of "Marginal Money Loan Routed through Government of Maharashtra" as per recommendation given by the two committees in favour of the petitioner who has fulfilled criteria, norms framed under the notification dated 04.05.2023 and petitioner is entitled the same amount to be released forthwith for the reasons and circumstances mentioned herein above."

2. The case of the petitioner is that the petitioner made an application for "Marginal Money Loan under the scheme of National Cooperative Development Corporation of the Government of India (for short **"NCDC"**) routed through the State Government", under the scheme as notified under the Government Resolution dated 4 May, 2023.

3. The scheme under the aforesaid Government Resolution sets out, that apart from the applications which would be directly entertained for disbursement of loan by NCDC, those sugar factories which do not comply with 9 norms of NCDC which are set out in paragraph 2 of the Government Resolution, can make an application for such loan, however, to be routed through the State Government. The Government Resolution accordingly prescribes the procedure and conditions which would be required to be followed grant of laon on applications.

4. The petitioner a registered Cooperative Society under the Maharashtra Cooperative Societies Act having a sugar factory in the name of "Raosahebdada Pawar Ghodganga Sakhar Karkhana", submitted a proposal dated 6 March, 2024, to the State Government under the Government Resolution dated 4 May, 2023, being a proposal "Marginal Money Loan Routed through Government of Maharashtra" for an amount of Rs.160 crores. It is petitioner's contention that the Technical Committee and the Economic Committee appointed by Government of Maharashtra scrutinized the petitioner's proposal and has recommended a loan of Rs.107.69 crores.

5. By a communication dated 27 March, 2024, the approval of the State Government in respect of 13 sugar factories was informed to the Regional Director of Western Region of National Cooperative Development Corporation. However, the petitioner was not granted an approval and the decision on petitioner's proposal was deferred. Dr. Saraf, learned Advocate General informs the Court that there were certain shortfalls which the petitioner was called upon to comply and hence the petitioner's proposal was not approved/recommended. It is in these circumstances, the petitioner approached this Court by the present petition praying for the reliefs as noted by us hereinabove. The petitioner in asserting its contentions, has also impleaded respondent nos. 3 to 18, being the sugar factories which were

recommended by the State Government to NCDC for grant of marginal money loan being routed through the Government of Maharashtra.

6. The record of this proceedings would show that a co-ordinate Bench of this Court passed an order on 21 August, 2024 granting ad-interim protection while issuing notice to the respondents. The said order is required to be noted, which reads thus:

> "1. The above Writ Petition is filed to quash the minutes of the meeting dated 23rd July, 2024 passed by the Respondents as also the decision taken by the Respondents for grant of the "Marginal Money Loan Routed through Government of Maharashtra" from NCDC, insofar as it does not consider granting the loan to the Petitioner. The Petitioner also seeks a Writ of Mandamus declaring that the Petitioner is entitled for grant of the "Marginal Money Loan Routed through the Government of Maharashtra" as per the recommendation given by the two Committees (referred to in the Petition).
>
> 2. The learned AGP appearing on behalf of Respondent Nos. 1 and 2 waives service of notice and sought time to file an affidavit in reply to the above Writ Petition. In these circumstances, we direct that the affidavit in reply, if any, shall be filed on or before 4th September, 2024 and a copy of the same shall be served on the advocates for the Petitioner. If the Petitioner wants to file any affidavit in rejoinder, they may do so on or before 11th September, 2024 and serve a copy of the same on the learned AGP. For the time-being, we are not issuing notice to Respondent Nos.3 to 18 who are private Respondents and who are other sugar factories.
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> 3. We direct that in the meanwhile, and without prejudice to the rights and contentions of the parties, till the next date of hearing, Respondent No.1 and/or Respondent No.2 shall not disburse [if not already disbursed], and hold on to, an amount of Rs.107.69 Crores as claimed by the Petitioner under the scheme of "Marginal Money Loan", or any part thereof.
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> 4. Stand over to 19th September, 2024."

7. Respondent no. 16 assailed the aforesaid order passed by this Court before the Supreme Court in the proceedings of Special Leave Petition

(Civil) Diary No. 56915/2024 *inter alia* contending that the interim order is affecting the rights of respondent no. 16 to be entitled to disbursement, being a case of a "duly approved and recommended applicant" and on account of such order passed by this Court, the disbursement of the loan was not being made in favour of respondent no. 16. It appears that on account of the said interim order, the disbursement to the extent of an amount of Rs.107.69 crores which was entitled to respondent nos. 14 to 18 was being pro-rata deducted as this Court specifically directed that an amount of Rs.107.69 crores be not disbursed. We note the said order passed by the Supreme Court, which reads thus:

> " The grievance of the appellant is that by virtue of Government Resolutions dated 05.09.2019, 04.05.2023 and 01.03.2023, the State Government offered loans to Cooperative societies. The appellant's application for grant of loan was approved on 23.07.2024 by National Cooperative Development Corporation. There is no dispute about this fact.
>
> 2. On the other hand, the application for grant of loan of respondent no. 3 was rejected by the Sub-Committee on 27.03.2024. Questioning that rejection, respondent no. 3 filed a writ petition inter alia challenging even the minutes of the meeting dated 23.07.2024 by virtue of which the appellant's loan was sanctioned.
>
> 3. The High Court entertained the writ petition and passed the interim order to the following effect:
>
> > "We direct that in the meanwhile, and without prejudice to the rights and contentions of the parties, till the next date of hearing, respondent no. 1 and/or respondent no. 2 shall not disburse [if not already disbursed], and hold on to, an amount of Rs.107.69 crores as claimed by the petitioner under the scheme of "Marginal Money Loan", or any part thereof."
>
> 4. It is evident from the above that the High Court has stayed disbursal of entire loan amount available for grant of loan amounting to Rs.107.69 crores, which directly affected a number of cooperative

societies including the appellants, in whose favour loan has been sanctioned. Such interim orders cannot continue for long.

5. We are informed by Mr. Ravindra Keshavrao Adsure, learned counsel for the petitioner(s) that though the High Court directed the writ petition to be listed on 19.09.2024, the case got adjourned to 14.11.2024, and thereafter to 23.11.2024, 04.12.2024, 11.12.2024, 18.12.2024 and is stated to be listed for hearing on 08.02.2025.

6. In view of the fact that the order impugned before us is interim in nature and the case is now listed for 08.02.2025, we are of the opinion that interest of justice will be subserved if the High Court takes up the writ petition and disposes it of as expeditiously as possible. In the event, the writ petition cannot be disposed of, the High Court shall reconsider and modify the interim order appropriately in order to balance the interests of all the parties.

7. List on 14.02.2025."

8. It is on the aforesaid backdrop, respondent no. 16 has filed the Interim Application No. 1256 of 2025 who is represented by learned counsel Mr. Ravindra Adsule. The prayers in the Interim Application are to the effect that the ex-parte interim order dated 21.08.2024 (supra) passed by this Court be vacated. There are other prayers which appear to be substantive. Such prayers in respondent No.16's Interim Application reads thus:

"a) in terms of Hon'ble Supreme Court's order dated 15.01.2025 in S.L.P. (C) No. D-56915/2024, take present application immediately on board for hearing and dispose of the same forthwith;

b) modify ex-parte interim order dated 21.08.2024 in the present Writ Petition No. 11572/2024 thereby recalling para 3 thereof;

c) quash & set aside Government Resolution (Cooperation, Marketing & Textile Department) No. Supp.0624/CR-51/3S dated 26.8.2024 (which was issued as per above mentioned order of this Hon'ble Court);

d) direct respondent nos. 1 & 2 to release forthwith balance Margin Money Loan amount of Rs.16.25 cr. In favour of Ashok Sahakari Sakhar Karkhana Ltd.(applicant/original respondent no. 16 herein).

e) pass ex-parte orders in terms of prayer clause (b), (c) & (d) and confirm the same after notices to respondent nos. 1 to 3;

f) pass other appropriate order."

9. We have heard Mr. Barge, learned counsel for the petitioner, Dr. Birendra Saraf, learned Advocate General on behalf of the State, Mr. Aradhye, learned counsel for respondent no. 15 and Mr. Adsule, learned counsel for respondent no. 16 on the petition as also on the Interim Application.

10. Dr. Saraf has referred to the reply affidavit filed by Mr. Ajay Madhavrao Deshmukh, Special Auditor Class-I (Sugar), Satara, who is stated to have been authorized by respondent no. 1-State of Maharashtra and respondent no. 2-The Committee of Ministry, through its Secretary of Committee to file the reply affidavit. Although the affidavit opposes the petition, in paragraph 7 of the affidavit it is stated that in the meeting held on 12 March, 2024 of the Cabinet Sub-Committee, the loan-proposal of petitioner was returned for removal of deficiencies as noticed. It is stated that such deficiencies were informed to the petitioner by letter dated 8 April, 2024. These deficiencies were sought to be complied by the petitioner as informed to the State Government by petitioner's letter dated 30 May, 2024. This was subject matter of consideration of the office of Commissioner of Sugar. It is stated that after a scrutiny, the loan proposal of the petitioner would be placed before the Cabinet Sub-Committee for fresh

consideration. It is hence contended that before any such decision is taken by the Cabinet Committee, this petition needs to be held to be premature. Paragraph 8 of the affidavit sets out various deficiencies which were noticed in the proposal of the petitioner. In paragraph 9 of the affidavit, it has been specifically pointed out that the allegation of the petitioner that the loan proposals of other ineligible cooperative sugar factories have been granted by the State, is not well-founded. It is contended that the petitioner was required to independently eligible and on the merits of its proposal, the petitioner's application would be considered. However, what has been stated in paragraph 10 of the reply affidavit is pertinent, namely, that the loan proposal of the petitioner could not be submitted before the meeting dated 23 July, 2024, as the same was under scrutiny. It is stated that as now the deficiencies are sought to be explained by the petitioner, the loan proposal of the petitioner is forwarded by the Sugar Commissioner on 30 August, 2024 to the State Government. Dr. Saraf has stated that the proposal of the petitioner would now be considered by the Cabinet Committee in accordance with law and an appropriate decision in that regard would be taken.

11. In this view of the matter, in our opinion, further adjudication of the petition is not called for. The proposal as made by the petitioner, as contended on behalf of the State Government is required to be taken to its logical conclusion by taking an appropriate decision thereon.

12. Insofar as those respondents whose proposals have attained finality and which stand recommended, have become entitled to receive the disbursement as may be permissible under the scheme, in pursuance of any decision taken by the State Government in that regard and who could not avail such benefit by virtue of the ad-interim order dated 21 August, 2024 passed by the co-ordinate Bench of this Court.

13. In the light of the above discussion, this petition would be required to be disposed of in terms of the following order:

ORDER

(i) An appropriate decision in respect of the petitioner's proposal be taken by the Cabinet Committee as expeditiously as possible and in any case within a period of 8 weeks from today.

(ii) Ad-interim order dated 21 August, 2024 stands vacated so that the respondents like respondent nos. 14 to 18 become entitled to avail of their disbursement which had stood withheld and are granted disbursement of their respective loans.

(iii) Except for what has been observed above, we have not dealt with any of the contentions in regard to any of the proposals which are either pending before the State

Government or before the NCDC. All contentions of the parties in that regard are expressly kept open.

(iv) Insofar as respondent nos. 14 to 18 are concerned, the State Government shall make disbursement in favour of these respondents as expeditiously as possible and within a period of two weeks from today.

(v) In view of our aforesaid directions, Government Resolution dated 26 August, 2024 be read accordingly.

14. Writ Petition stands disposed of in the aforesaid terms.

15. Interim Application No. 1256 of 2025 would also be disposed of, as we have already vacated the interim order.

16. Mr. Adsule, learned counsel has fairly pointed out that Interim Application No. 14111 of 2024 filed by respondent no. 16 be permitted to be withdrawn. We allow withdrawal of the said application.

17. Interim Application No. 14111 of 2024 is disposed of accordingly.

(ADVAIT M. SETHNA, J.) **(G. S. KULKARNI, J.)**

Signed by: Vidya S. Amin
Designation: PS To Honourable Judge
Date: 30/01/2025 21:45:38